

REMARKS

Reconsideration of this application is respectfully requested in view of the comments set forth below.

Initially, applicant wishes to thank Examiner Patel for the time and courtesy extended to applicant's undersigned counsel during the telephone interview conducted on November 5, 2008. During that interview, applicant pointed out to the Examiner where each of the elements recited in claim 1 can be found in the drawings of the present application. Applicant further pointed out how the *Ambrosio* reference fails to teach all of the limitations of claim 1. In particular, applicant pointed out how *Ambrosio* fails to disclose (i) a conduit providing fluid communication between an interior of the sealed reservoir and the pressure relief port of the channel; (ii) a cup assembly movably received in the channel; and (iii) the cup assembly including a second sealing surface adapted to seal the pressure relief port when the recess is aligned with the dispensing port and to unseal the pressure relief port when the recess is not aligned with the dispensing port. The Examiner agreed with the applicant that *Ambrosio* fails to teach the foregoing features, all of which are set forth in claim 1, and on this basis agreed that claim 1 was allowable over *Ambrosio*. In the following comments, applicant elaborates on the points set forth above as to how the present invention distinguishes over *Ambrosio*.

In the Official Action, claims 1, 2 and 16 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,240,918 to *Ambrosio et al.* ("*Ambrosio*"). Applicant respectfully traverses this rejection for the reasons set forth below.

Referring to claim 1, applicant submits that *Ambrosio* fails to teach each and every limitation of the claim. Claim 1

includes the requirement for "a linear channel communicating with the dispensing port and including a pressure relief port." During the aforementioned telephone interview, the Examiner initially referred to the walls of dose hole 184 (Fig. 22C) as the linear channel. However, when the applicant pointed out that the Examiner had previously characterized dose hole 184 as the "recess" of claim 1, the Examiner agreed that *Ambrosio* fails to teach a linear channel "communicating with the dispensing port and including a pressure relief port" as required by claim 1.

Even assuming that the walls of dose hole 184 could somehow be characterized as a linear channel while the dose hole 184 itself is characterized as a recess, *Ambrosio* still fails to teach the requirement in claim 1 for "a cup assembly movably received in the channel." Indeed, *Ambrosio* fails to teach any structure which is movably received within the walls of dose hole 184.

In addition, *Ambrosio* fails to teach the requirement in claim 1 for "a conduit providing fluid communication between an interior of the sealed reservoir and the pressure relief port of the channel." In the Official Action, the Examiner pointed to venturi conduit 64 of *Ambrosio* as meeting this requirement. However, in accordance with the Examiner's interpretation of the other features of *Ambrosio*, and particularly that powder retainer 186 comprises the pressure relief port of claim 1, applicant submits that *Ambrosio* fails to teach any way in which venturi conduit 64 provides fluid communication between reservoir body 22 and powder retainer 186.

Finally, *Ambrosio* fails to teach the requirement in claim 1 that the cup assembly include "a second sealing surface adapted to seal the pressure relief port when the recess is aligned with the dispensing port and to unseal the pressure relief port when the recess is not aligned with the dispensing

port." In accordance with the Examiner's interpretation of *Ambrosio*, applicant believes that the metering dose plate 180 of *Ambrosio* would constitute the cup assembly of claim 1. However, since powder retainer 186 travels with metering dose plate 180 (see, for example, col. 14, lns. 3-10 and 24-30 of *Ambrosio*), the metering dose plate simply cannot have both sealed and unsealed positions relative to the powder retainer. In other words, since the metering dose plate 180 travels with the powder retainer 186, it simply cannot have a surface adapted to seal the powder retainer when the recess of the powder retainer is aligned with the dispensing port. Rather than having a surface which seals and unseals the pressure relief port (i.e., the powder retainer 186), it appears from the Examiner's interpretation of *Ambrosio* that the metering dose plate 180 has a surface which seals and unseals the dispensing port 60.

In view of the foregoing, applicant submits that *Ambrosio* fails to teach each and every limitation of claim 1. According, applicant submits that claim 1 patentably distinguishes over *Ambrosio* such as to warrant its immediate allowance.

Claims 2 and 16 depend from claim 1 and include all of the limitations thereof. For at least this reason, applicant submits that claims 2 and 16 also patentably distinguish over *Ambrosio* and are in condition for allowance.

The Examiner has indicated that claims 3-15 and 17 are merely objected to, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the above-noted remarks, however, applicant submits that claims 3-15 and 17 are in condition for immediate allowance, at least by virtue of their dependency from claim 1. Accordingly, allowance of these claims is respectfully requested.

As it is believed that all of the rejections set forth

in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 6, 2008

Respectfully submitted,

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